

from the desk of...

64918

Bernie Ryan

Cindy -

Here's the letter from
Gaska Tape's attorney. It's
the one I mentioned on
the phone. Also, could
we get a draft of your
report before it goes to
final? I never thought to
ask you, but Vanessa thought
it would be a good idea.

Thanks,

Bernie

(312) 902-7059

Coffield Ungaretti Harris & Slavin

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February 21, 1991

Mr. Robert Lance
Remedial Project Manager
United States Environmental Protection Agency
230 South Dearborn SHS
Chicago, Illinois 60604

Re: Gaska Tape/Himco Site
Our File No. 33052-00001

Dear Mr. Lance:

This letter represents a supplemental response of Gaska Tape Incorporated ("Gaska Tape") to the United States Environmental Protection Agency's ("USEPA") prior requests pursuant to its authority under Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §§ 9601, 9604(e) "CERCLA"), as amended by the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99-499, 100 Stat. 1613 (1986) "SARA"). Gaska Tape has conducted a comprehensive investigation into its past waste disposal activities as well as into its alleged utilization of Himco Waste-Away Services, Incorporated. This supplemental response is provided in good faith and in a timely manner so as to assist USEPA in an accurate assessment of Gaska Tape's alleged involvement with the Himco Landfill located in Elkhart, Indiana ("Site"). As fully demonstrated by this and previous submittals, Gaska Tape should not be considered to be a Potentially Responsible Party ("PRP") at the Site.

As noted in previous correspondence to USEPA dated May 4, 1989 and September 19, 1990, Gaska Tape's operations in the past did not contribute in any way whatsoever to the hazardous substances that allegedly were disposed of at the Site. Based upon information provided to us by Gaska Tape, our investigation confirms that Gaska Tape's past operations did not generate hazardous wastes and/or hazardous substances as those terms are specifically defined by law. (See 40 CFR Part 302 and 40 CFR Part 261; also see Affidavit of Ray Wells dated February 14, 1991). The wastes generated

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by Gaska Tape were of a non-hazardous nature and accordingly, Himco Waste-Away Services, Inc. could have transported only non-hazardous wastes. The certainty that Gaska Tape's past operations did not produce hazardous wastes and/or hazardous substances is substantiated by the fact that Gaska Tape's present operations do not generate hazardous wastes and/or hazardous substances. (See Affidavit of Christen D. Habegger dated February 13, 1991).

Gaska Tape has been identified incorrectly as a PRP at the Site and is an improper recipient of all notices received to date from the USEPA. The following information relating to the time period during which Gaska Tape utilized Himco Waste-Away Services, Inc. (1972-1976) is provided to support the conclusion that Gaska Tape has been improperly named as a PRP and should be deleted from the list of PRPs at the Site.

Supplemental Response

1. Provide a description of your business, including:
 - a. type of work performed at your facility;

ANSWER: Gaska Tape Inc. is a manufacturer of foam and tape products.

- b. manufacturing processes;

ANSWER: The tape manufacturing process requires the assembly of various components, most of which are purchased from outside vendors, into a finished tape product.

The only tape component manufactured at Gaska Tape is polyvinylchloride ("PVC") foam. This process requires the combination of PVC resins and plasticizers to form a slurry. A blowing agent consisting primarily of nitrogen is added to the slurry and the entire mixture is heated to transform the liquid into a foam.

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c. wastes generated;

ANSWER: As reported previously in correspondence dated May 4, 1989, wastes generated, in addition to general office refuse, are as follows: PVC resin and foam; plasticizers; paper; polyester film; aluminum foil; and, water based pressure sensitive adhesives. The PVC resin and foam were generated only during the period from April 1976 through September 1976.

d. waste disposal practices;

ANSWER: Gaska Tape disposed of all wastes in small trash dumpsters which were transported by Himco Waste-Away Services, Inc.

e. SIC number.

ANSWER: Gaska Tape's SIC number is 3086282104.

2. Provide a list of all companies and individuals with which you made arrangements to dispose of hazardous wastes.

ANSWER: None. Gaska Tape does not generate hazardous wastes.

Also identify the individual responsible for making arrangements for the disposal or treatment of waste materials at your facility.

ANSWER: To the extent that the term "waste materials" excludes hazardous wastes and/or hazardous substances but includes solid wastes of a non-hazardous nature, the appropriate answer is Fritz Gurber.

3. Did you ever make arrangements for disposal of waste materials with Himco, Inc. or Himco Waste-Away or any other company for disposal of waste at the site?

ANSWER: To the extent that the term "waste materials" excludes hazardous wastes and/or hazardous substances but includes solid wastes of a

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non-hazardous nature, the appropriate answer is as follows. For the first time in February of 1972, Gaska Tape retained Himco Waste-Away Services, Inc. to dispose of its wastes, all of which were of a non-hazardous nature. Gaska Tape has no direct knowledge, however, as to the final destination of wastes transported by the Himco Waste-Away Services, Inc.

4. Provide copies of all shipping documents, or other business documents including receipts, relating to the transportation, storage and/or disposal of waste materials at the above-referenced site.

ANSWER: We have conducted a diligent search for all documentation responsive to this information request, and no such records exist given the historical nature of the response solicited.

5. Provide the generic, common or trade name and the chemical composition and character (i.e., liquid, solid, sludge) of the materials transported to, stored and/or disposed of at the above-referenced site.

ANSWER: The following information is known by Gaska Tape relating to its non-hazardous, solid wastes^{1/} allegedly transported by Himco Waste-Away Services, Inc. As noted in our response to Question 3, however, Gaska Tape has no direct knowledge as to the final destination of wastes transported by the Himco Waste-Away Services, Inc.

^{1/} The wastes referred to herein are the same wastes reported to the USEPA by Gaska Tape in correspondence dated May 4, 1989.

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<u>Waste</u> ^{2/}	<u>Common/ Trade Name</u>	<u>Chemical Composition</u> ^{3/}	<u>Char- acter</u>
1. Polyvinylchloride foam	PVC foam	Unknown	Solid
2. Polyvinylchloride resin	PVC resin	Unknown	Solid
3. Plasticizers	Same	Unknown	Solid
4. Paper	Same	Unknown	Solid
5. Polyester film	Same	Unknown	Solid
6. Aluminum foil	Same	Unknown	Solid
7. Water-based pressure adhesives	Adhesives	Unknown	Solid

Mr. Ray Wells, retired Chief Chemist for Gaska Tape, states in his Affidavit that PVC foam was the only waste generated as a result of Gaska Tape's operations and/or processes and that all other wastes resulted from ingredients, raw materials or products purchased from outside vendors. In his sworn statement, Mr. Wells notes that none of the

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- ^{2/} The data reported in this chart are based upon information received from retired Gaska Tape Chief Chemist, Ray Wells. In light of the historical nature of the requested information, no records exist which would provide the details desired. Mr. Wells, however, was employed by Gaska Tape during the relevant time period (1972-1976) and has first-hand knowledge of the subject matter under investigation. (See Affidavit of Ray Wells dated February 14, 1991).
- ^{3/} In his Affidavit, Mr. Wells states that Gaska Tape produced small quantities of waste during the years 1972-1976 and that these were "all of a non-hazardous nature" to the best of his knowledge.

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wastes transported by Himco Waste-Away Services, Inc. were heavy metals and/or hazardous substances.

6. For each waste material identified above, please give the total volume in gallons for liquids and in cubic yards for solids, for which you arranged disposal and list the dates when disposal occurred.

ANSWER: Even though Gaska Tape has no direct knowledge that any individual arranged for disposal of the wastes discussed herein and outlined in the response to Question 5, Mr. Wells states in his Affidavit that wastes transported by Himco Waste-Away Services, Inc. were in the amount of one small trash dumpster every two weeks beginning in 1972 and gradually this amount increased to one small trash dumpster every week in 1976.

7. Provide copies of all records, including analytical results, and material safety sheets, which indicate the chemical composition and/or chemical character of the waste material(s) transported to, stored, or disposed of at the above-referenced site.

ANSWER: To the extent that the term "waste material(s)" excludes hazardous wastes and/or hazardous substances but includes solid wastes of a non-hazardous nature, the answer is as follows. Given the time lapse of almost fifteen years, no specific records exist relating to the wastes discussed herein and outlined in the response to Question 5. To the fullest extent possible, the waste history and disposal practices at the Gaska Tape facility have been reconstructed as illustrated by the Affidavit of former Chief Chemist, Ray Wells. Gaska Tape has no direct knowledge as to the final destination of wastes transported by Himco Waste-Away Services, Inc.

8. Provide a list and description of all liability insurance coverage that is or was carried by you, including any self-insurance provisions that relate to hazardous substances and/or the facility identified above.

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ANSWER: As discussed herein, Gaska Tape does not generate hazardous substances and/or hazardous wastes and accordingly, this question is inapplicable.

A diligent search for all documents responsive to the information requested has been completed. Nothing stated in this response, however, is to be construed as an admission of any type on behalf of Gaska Tape Incorporated. It expressly does not waive the opportunity to challenge the lawfulness of the information requested or to assert any other legal defenses that may be utilized by it. Furthermore, Gaska Tape reserves any and all rights that it may have to oppose the procedural or substantive propriety of this information request. Gaska Tape's response is for settlement purposes only and is given in order to resolve a punitive threat of potential liability.

Based upon the foregoing, we assert that Gaska Tape Incorporated has been named improperly as a PRP at the Site and is an inappropriate recipient of all notices issued by the USEPA to date and all notices to be issued by the USEPA in the future. In light of the information provided herein, we request that Gaska Tape Incorporated be deleted as a PRP at the Site.

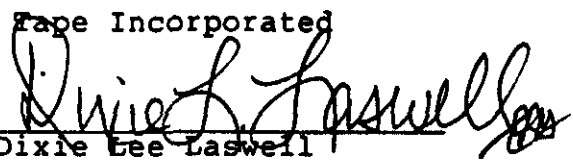
If additional information is required to favorably evaluate our request or if a meeting is necessary to discuss the supplemental response in greater detail, the appropriate contact person is:

Dixie Lee Laswell
Coffield Ungaretti Harris & Slavin
3500 Three First National Plaza
Chicago, Illinois 60602
(312) 977-9219

Very truly yours,

Gaska Tape Incorporated

By:


Dixie Lee Laswell
One of Its Attorneys

cc: Jack B. Smith, Jr., President

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A T T A C H M E N T S

1. Affidavit of Ray Wells dated February 14, 1991.
2. Affidavit of Christen D. Habegger dated February 13, 1991.

STATE OF FLORIDA)
)
COUNTY OF LEE)

A F F I D A V I T

Comes Now Ray Wells and being first duly sworn upon his oath states as follows:

1. That he is an adult and a current resident of Lee County, Florida.
2. That he is a certified chemist educated at North Carolina State and was employed at Gaska Tape Incorporated, P.O. Box 1968, 1810 West Lusher, Elkhart, Indiana, from 1970 through 1990.
3. That he retired from Gaska Tape in 1990 as Chief Chemist.
4. That he is familiar with the overall operations of Gaska Tape and has specific knowledge relating to the wastes generated at the facility during his years of employment.
5. That Gaska Tape produced small quantities of wastes during the years 1972 through 1976 and that these wastes were all of a non-hazardous nature to the best of his knowledge.
6. That the small quantities of non-hazardous waste produced by Gaska Tape during the years 1972 through 1976 consisted of general office refuse as well as production wastes including paper, polyester film, aluminum foil, foam plasticizers, water-based pressure sensitive adhesives and polyvinylchloride ("PVC") foam.
7. That the only waste actually generated as a result of Gaska Tape's operations or processes during the period 1972-1976 was PVC foam and that all other wastes resulted from ingredients, raw materials or products purchased from outside vendors.

8. That Himco Waste-Away Services, Inc. was retained by Gaska Tape in 1972 to haul the non-hazardous wastes from the facility located in Elkhart, Indiana.

9. That Himco Waste-Away Services, Inc. hauled solid wastes only in the amount of one small trash dumpster every two weeks beginning in 1972 and gradually this amount increased to one small trash dumpster every week in 1976.

10. That Gaska Tape generated small quantities of wastes because all scrap materials were reprocessed to the fullest extent possible including foam plasticizers and PVC foam.

11. That the small quantities of waste hauled by Himco Waste-Away were not heavy metals and/or hazardous substances to the best of his knowledge.

12. That Gaska Tape utilized no sodium in its operation or any products which would result in sodium by-products to the best of his knowledge.

Further affiant sayeth not.

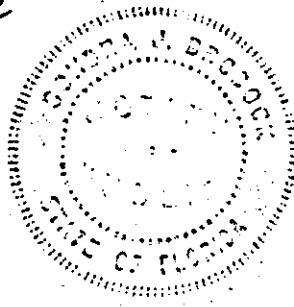
Dated in Sanibel, Florida, this 14th day of February, 1991.

Ray Wells
RAY WELLS

STATE OF FLORIDA)
)
COUNTY OF LEE)

SUBSCRIBED AND SWORN TO
before me this 14 day
of Feb, 1991.

Donald B. Bader
Notary Public
NOTARY PUBLIC, STATE OF FLORIDA.
MY COMMISSION EXPIRES: JULY 9, 1994.
BONDED THRU NOTARY PUBLIC UNDERWRITERS.



STATE OF INDIANA)
)
COUNTY OF ELKHART)

A F F I D A V I T

Comes Now Christen D. Habegger and being first duly sworn upon his oath states as follows:

1. That he is an adult and a current resident of Elkhart County, Indiana.

2. That he is a chemist educated at Bluffton College and is employed at Gaska Tape Incorporated, P.O. Box 1968, 1810 West Lusher, Elkhart, Indiana.

3. That he has been with Gaska Tape since May of 1980 and is currently employed as the Technical Director.

4. That he is familiar with the overall operations of Gaska Tape and has specific knowledge relating to the wastes generated at the facility at this time.

5. That small quantities of solid wastes are produced by Gaska Tape consisting of general office refuse as well as production wastes.

6. That Gaska Tape generated small quantities of solid wastes because all scrap materials are reprocessed to the fullest extent possible.

7. That these solid wastes produced by Gaska Tape are of a non-hazardous nature to the best of his knowledge.

8. That the operations of Gaska Tape do not produce solid wastes which require a permit for the treatment, disposal or storage of hazardous wastes to the best of his knowledge.

9. That solid wastes produced at Gaska Tape are handled in an appropriate manner and in accordance with all local, state and federal laws to the best of his knowledge.

10. That the operations of Gaska Tape, including all waste disposal practices, are carefully evaluated and assessed on a regular basis by trained professionals to ensure environmental protection and worker safety.


Further Affiant sayeth not.

Dated in Elkhart, Indiana, this 13th day of February, 1991.


CHRISTEN D. HABEGGER

STATE OF INDIANA)
)
COUNTY OF ELKHART)

SUBSCRIBED AND SWORN TO
before me this 13th day
of February, 1991.


Notary Public

Nancy L. Barnett

County of Residence: St. Joseph

